

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-1171**

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LENARD A. FOOTLAND,

Plaintiff - Appellant,

versus

DONALD L. EVANS, in his official capacity as  
Secretary of Commerce,

Defendant - Appellee,

and

BRUCE H. STONER, JR., in his official capacity  
as Chief Administrative Patent Judge; GEORGE  
W. BUSH, in his official capacity as President  
of the United States,

Defendants.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Alexandria. T. S. Ellis, III, District  
Judge. (CA-03-487)

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Submitted: July 28, 2004

Decided: August 10, 2004

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Before WILKINSON and WILLIAMS, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Lenard A. Footland, Appellant Pro Se. Rachel Celia Ballow, OFFICE  
OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Lenard A. Footland appeals the district court's order granting summary judgment to Defendant on Footland's claims of race and sex discrimination, as well as retaliation.

We review an order granting summary judgment de novo. Higgins v. E.I. DuPont de Nemours & Co., 863 F.2d 1162, 1167 (4th Cir. 1988). Summary judgment is appropriate only when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986). We view the evidence in the light most favorable to the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). A mere scintilla of proof, however, will not suffice to prevent summary judgment; the question is "not whether there is literally no evidence, but whether there is any upon which a jury could properly proceed to find a verdict for the party" resisting summary judgment. Anderson, 477 U.S. at 251 (1986) (internal quotation marks omitted).

We agree with the district court that Footland failed to demonstrate a prima facie case of unlawful discrimination. See St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 505-06 (1993). We further agree that Footland failed to satisfy the three elements of a prima facie case of retaliation. See Hopkins v. Baltimore Gas & Elec. Co., 77 F.3d 745, 754 (4th Cir. 1996). Accordingly, we

affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED